

China-Vietnam: Territorial and Jurisdictional Disputes

An Intelligence Assessment

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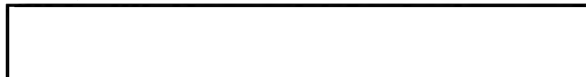


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Summary

A wide variety of issues are likely to be discussed in Sino-Vietnamese peace negotiations now under way in Hanoi. Conflicting national ambitions in Southeast Asia, Vietnam's invasion of Kampuchea, and China's alarm over Vietnam's growing ties with the Soviet Union were the root cause of the recent fighting, and these same factors are going to determine the tone and the course of the peace talks. However, Hanoi and Beijing also have a number of real territorial and jurisdictional disputes that became public in 1978-79 as bilateral relations deteriorated. []

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In lengthy Foreign Ministry memorandums published last March, Beijing and Hanoi spelled out their respective positions on the three outstanding territorial differences between them: the land border, the Gulf of Tonkin sea boundary, and offshore islands. While summarizing their respective claims, the memorandums also served to highlight the differences in the Chinese and Vietnamese approaches to each dispute —underscoring the fact that some will be more easily settled than others but that resolution of any of them will depend upon an improvement in their overall relations. []

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The land border should be the easiest of the disputes to resolve. There is no basic disagreement over its correct alignment, although some minor differences have arisen over the demarcation of the border on the ground. However, sizable troop deployments on both sides of the border and both countries' use of the dispute for propaganda purposes to serve foreign and domestic policy objectives will complicate the negotiations. []

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The dispute over the Gulf of Tonkin sea boundary will prove to be very difficult to resolve even under the best of political circumstances. Diametrically opposed stands on the demarcation of the sea boundary coupled with conflicting principles of international law guarantee that negotiations will be long and arduous even if the political will exists to resolve the issue. The desire of both countries to exploit oil in the Gulf will at least initially intensify the dispute, although in the long run this factor may provide the impetus to compromise. []

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The dispute over the ownership of the Paracel and Spratly Islands will be virtually impossible to resolve at the negotiating table. The Chinese control the Paracels, and the Vietnamese occupy six of the Spratly Islands; both countries are taking measures to strengthen their respective positions. Because of their strategic location and offshore oil potential, neither side is prepared to negotiate a change in the status quo nor renounce its territorial claims to them. [REDACTED]

Few expect the peace talks to resolve the territorial and jurisdictional disputes, let alone the deeper political and strategic conflict. If an accommodation cannot be reached on the broader political plane these disputes could become the focal points for any future confrontation between China and Vietnam. [REDACTED]

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**China-Vietnam:
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Land Border

Of the outstanding territorial and jurisdictional issues, the land border dispute should be the least difficult to solve, particularly if it can be kept separate from the Gulf of Tonkin and offshore islands disputes and other larger political problems. Both sides agree that the border was delimited in the 1885 Treaty of Peace, Friendship, and Commerce between the Qing Dynasty and France, and in 1887 and 1895 boundary conventions that followed the original treaty (see map 1, foldout at end). Neither country has publicly questioned the legality of the treaties; and the correct alignment is shown on maps published by the French Government and by the Chinese. The border is demarcated by widely spaced stone pillars and theoretically follows straight lines or prominent natural features between markers. [REDACTED]

Although there is basic agreement on the alignment of the boundary, some minor, local disputes have arisen over traditional transborder agricultural and other practices, such as mining. Over the years, a few movements of border markers and minor changes in the actual boundary between markers have taken place reflecting these patterns of local usage. [REDACTED]

In an exchange of letters by the Vietnamese and Chinese Party Central Committees in 1957 and 1958, the two countries agreed to respect the status quo pending negotiations at the national level to resolve local variations. Subsequent negotiations, however, failed to resolve these differences. Border clashes during the exodus of overseas Chinese in 1978 and the worsening of their overall political relationship in recent years led both countries to construct defensive fortifications along the border in certain areas delimited on the map but not physically demarcated on the ground. The fortifications focused attention on areas where the existing border differed from that prescribed by the 1887 treaty. [REDACTED]

Vietnam claims that Chinese troops have occupied some 10 or 12 positions that Hanoi held prior to the Chinese invasion. China has consolidated its military position along the border and Vietnam is deploying a large number of troops there. [REDACTED]

The March memorandums give some indication of the approaches Hanoi and Beijing are likely to take in substantive border talks. Both sides reaffirm the Qing Dynasty-French Treaty as the basis for the border negotiations. In the original 19th century treaty negotiations, the French were able to obtain a boundary line that provided them with a good position to counter the activities of Chinese brigands. Not surprisingly, Hanoi argues for the maintenance of the borderline as it was officially delineated in the original treaty and as it should theoretically be demarcated on the ground. A return to the original boundary line would have the double advantage of improving Vietnam's tactical situation and forcing Chinese troops to pull back from their present positions. [REDACTED]

The Chinese memorandum stresses the maintenance of the status quo as it exists on the ground—as agreed to in the exchange of letters in 1957 and 1958 by the Party Central Committees—pending the outcome of negotiations at the national level. The Chinese blame Hanoi's local authorities for unilaterally attempting to make changes in the status quo boundary when these problems should have been negotiated by the respective central governments. Beijing does not specifically make a case for adjusting the boundary to fit the minor changes that have occurred as a result of local usage, but the memorandum's emphasis on the status quo and insistence that the local variations be negotiated by the national governments suggest that Beijing may press for some minor boundary adjustments during future substantive negotiations. [REDACTED]

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Gulf of Tonkin

Sino-Vietnamese land border differences are over insignificant chunks of real estate. The Gulf of Tonkin dispute is a much more serious matter, with jurisdiction over thousands of square kilometers of the Gulf at stake. Vietnam's Foreign Ministry memorandum made public for the first time its extensive claims in the Gulf. These claims, also, are based on the 1887 Sino-French boundary convention, which Hanoi maintains established Greenwich Meridian 108°03'18" east as the offshore boundary (map 2). Hanoi's memorandum concludes that the extension of this meridian boundary from the southern part of the Gulf into the South China Sea is all that needs to be done. [REDACTED]

Beijing's memorandum refuted the Vietnamese claim that the Gulf has already been divided, but in contrast to Vietnam's specific treatment of the dispute, gave no countering documentation or specific claims. China merely stated that negotiations were needed to settle the issue on an equitable basis. [REDACTED]

Hanoi's Foreign Ministry memorandum clearly tries to put the onus for the Tonkin dispute on China. Vietnam maintains that the dispute started in 1973, when Hanoi informed China of its intention to prospect for oil and proposed negotiations to delineate officially the offshore boundary. China evidently agreed but insisted that until an agreement was reached third countries be prohibited from conducting exploration activities and no prospecting be conducted by either China or Vietnam in a large area of the central Gulf, effectively preventing any meaningful Vietnamese attempt to exploit oil resources. Vietnam maintains that these negotiations and another round of talks in 1977 both failed because of China's refusal to discuss seriously the offshore boundary question. [REDACTED]

In fact, the culpability for the Tonkin impasse lies more with Vietnam than with China. A reading of the 1887 treaty shows that Vietnam's claim that the treaty divided the Gulf is an exaggeration. The treaty text states that "the islands which are east of the Paris meridian of 105°43' east (108°03'18" east of Greenwich), that is to say the north-south line passing through the eastern point of the island of Tra-co, which forms the boundary, are also allocated to China. The

island of Gocho and other islands west of this meridian belong to Annam." Although the wording is imprecise, it appears that the 108°03'18" meridian was intended not to divide the entire Tonkin Gulf but to serve as a cartographic device for awarding control over offshore islands. The concept of extending maritime boundaries great distances from the coast did not even exist in the 19th century, and Vietnam's contention that a mutually acceptable offshore boundary has been in existence since that time is obviously flawed. [REDACTED]

The Gulf's oil potential seems to be the real stimulus for the dispute. China has already conducted seismic surveys and drilled several test wells, reportedly discovering oil at two locations near Vietnam's claimed meridian boundary line. When China attacked Vietnam, however, it withdrew its drilling rigs to safer but presumably less promising waters near Hainan Island. Underscoring its intention to proceed with its development plans, China recently initialed contracts with four US companies to conduct further seismic studies of the Gulf west of Hainan. [REDACTED]

In 1973, Vietnam expressed interest in exploring for oil in the Gulf, but fear of an adverse Chinese reaction and an inability to reach agreement with foreign companies thwarted its plans. The Vietnamese are reportedly again planning to initiate seismic operations in the Gulf in the near future. [REDACTED]

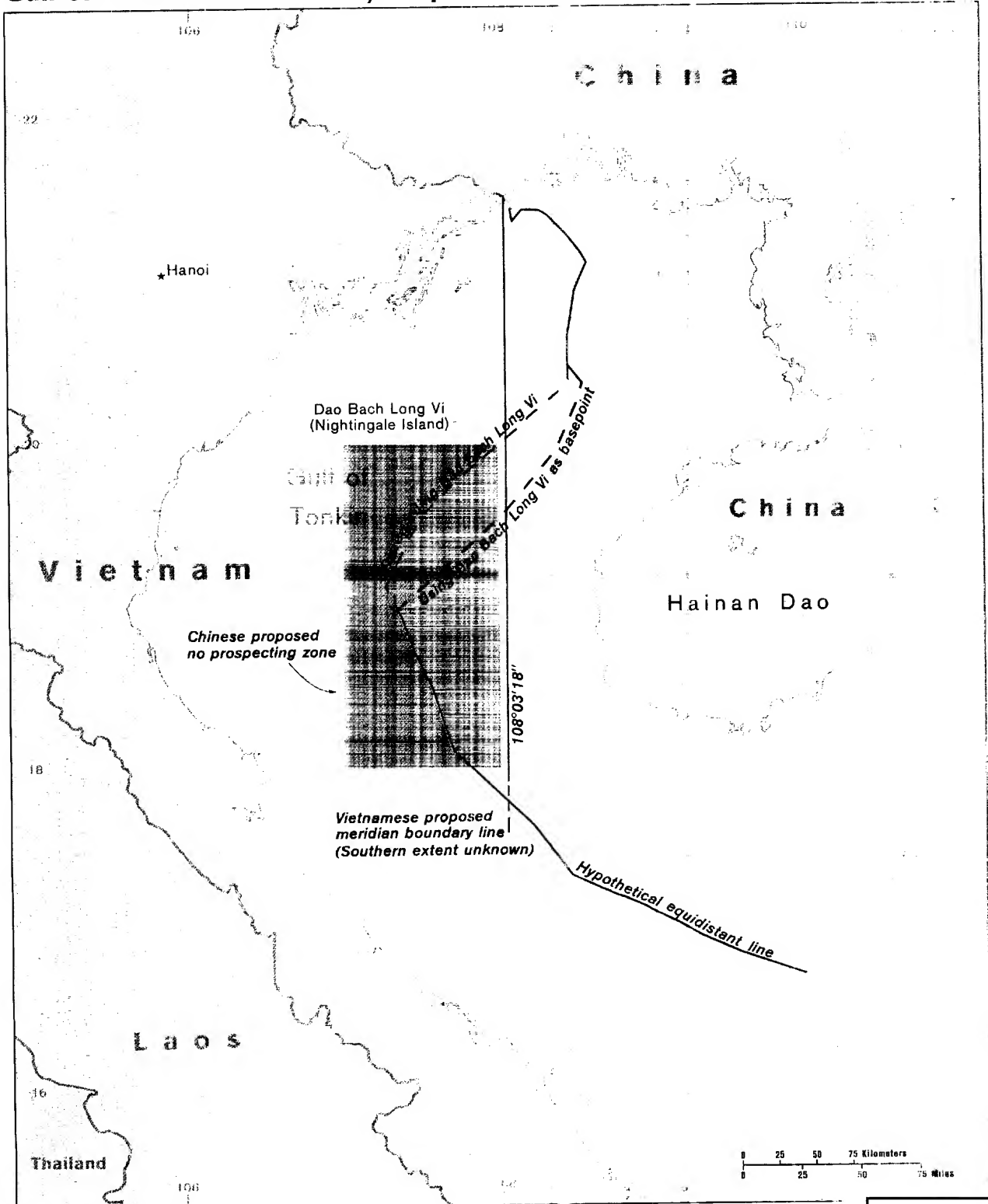
As the search for offshore oil intensifies, the chance of a military encounter increases. China already enjoys naval superiority in the Gulf and continues to build up its forces there. [REDACTED]

Vietnam would be hard pressed to defend militarily its extensive claims in the Gulf. Despite recent acquisitions from the USSR, the Vietnamese Navy is no match for the Chinese forces. The continuing presence of Soviet naval vessels in the South China Sea, however, would restrict China's freedom of action against Vietnam. [REDACTED]

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Gulf of Tonkin: Sea Boundary Dispute

Map 2



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The Gulf's oil potential, while providing the impetus for the sea boundary dispute, may yet motivate Hanoi and Beijing to ignore their larger political differences and start substantive talks. It will be difficult for either country to exploit offshore oil fully unless some kind of *modus vivendi* is reached. For negotiations to have even a minimal chance of success, however, the Vietnamese will have to drop their insistence that the meridian boundary line be the basis of negotiations because it would award Vietnam jurisdiction over a large area west of Hainan Island that is coveted by China for its oil potential. [REDACTED]

Even if Vietnam abandons its adherence to the meridian boundary line, a division of the Gulf would still require long, arduous negotiations. The area should theoretically be divided on the basis of equitable principles. This is frequently accomplished by drawing an equidistant line, but two problems complicate the use of that method in the Gulf. A Vietnamese island, Dao-Bach Long Vi, lies in the middle of the Gulf, and the two countries undoubtedly will disagree over how this island affects the boundary. China will demand that the island be ignored; Vietnam will insist that the island be given full effect in determining the boundary—thus giving Hanoi jurisdiction over a much larger sector of the Gulf between Dao-Bach Long Vi and Hainan Island. A second problem is that China has been opposing the use of the equidistant method to determine the boundary with Japan and South Korea in the East China and Yellow Seas, and would be loath to set a precedent by using this method to divide the Gulf. [REDACTED]

South China Sea Islands

Beijing and Hanoi probably disputed in private the ownership of the Paracel and Spratly Islands as well as the Tonkin Gulf sea boundary in 1973 but it was not until 1978, when bilateral relations were sharply deteriorating, that their public airing of the dispute began. Between 1976 and 1978, however, both sides explicitly claimed the South China Sea islands as forming part of their respective territories (map 3). [REDACTED]

Paracels

China and South Vietnam each claimed sovereignty over the Paracels in the early 1950s, citing historical documents and dynastic practices as evidence of their rights to jurisdiction over them. In 1956, after the South Vietnamese replaced French troops on several of the Paracels, Beijing established a naval base on one island and garrisoned some 200 soldiers on two others. After South Vietnam occupied additional islands in late 1973, China launched a successful naval and air attack in early 1974 against South Vietnamese troops, and secured control over the entire archipelago. [REDACTED]

At the time, Hanoi did not publicly object to China's takeover of the Paracels. But in 1976, it published maps that showed the Paracels and some other islands as Vietnamese territory, and in 1977 referred to them in its declaration of the limits of Vietnam's territorial sea. Only in 1978 did Hanoi begin to assert publicly Vietnamese territorial claims vis-a-vis China and to denounce Chinese occupation of the Paracels. Vietnam formally claimed the Paracels in a December 1978 Foreign Ministry statement, citing the same historical arguments as the Saigon government. The Foreign Ministry memorandum published in March repeated Hanoi's historical justifications, and again denounced Beijing's 1974 takeover. [REDACTED]

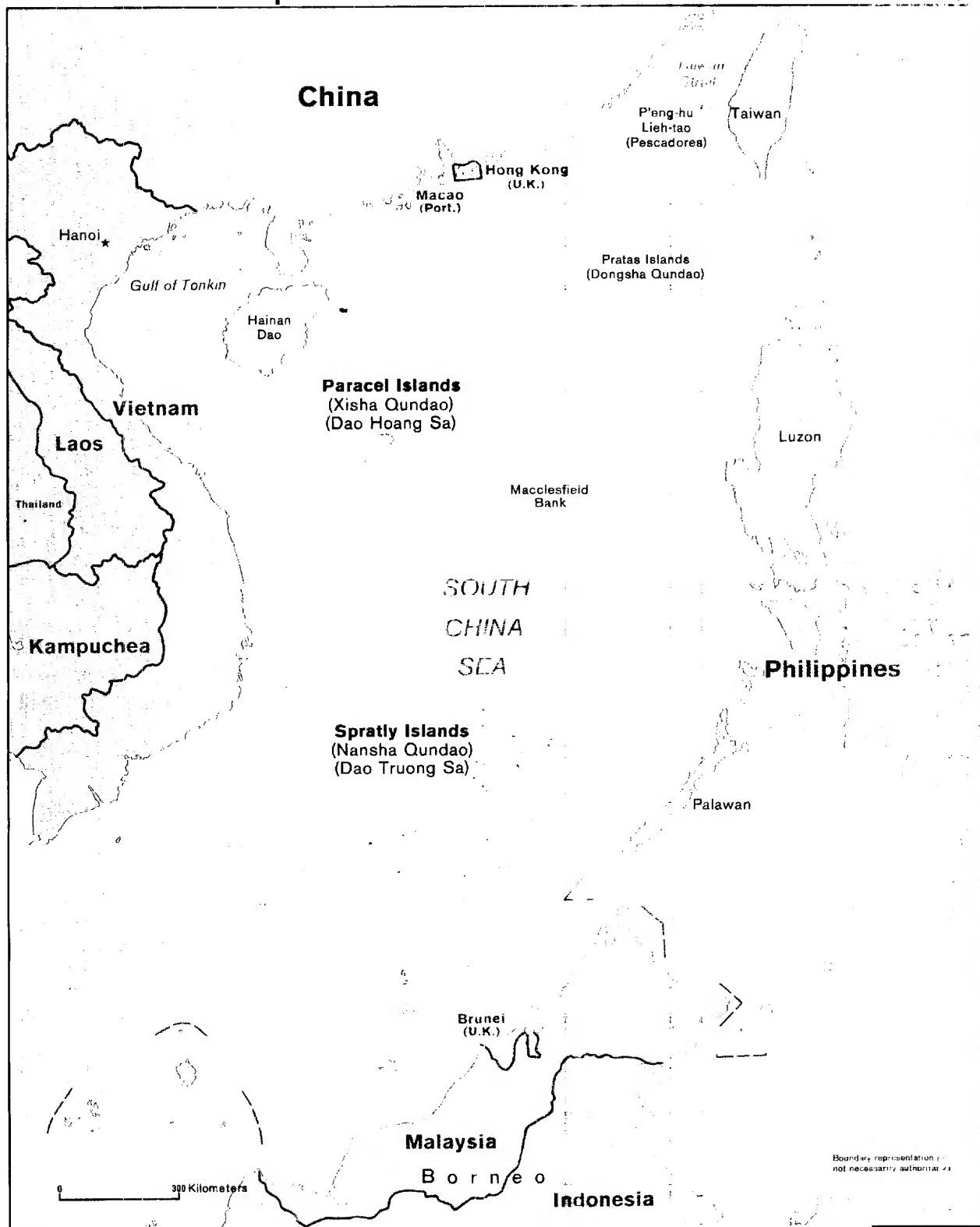
The Chinese March memorandum refuted Vietnam's claims, arguing that Hanoi had recognized China's claims to the Paracels and other South China Sea islands on a number of occasions in the past. Beijing further asserted that Vietnamese Premier Pham Van Dong had accepted Chinese dominion over the islands when he wrote to Zhou Enlai that "the Government of the Democratic Republic of Vietnam recognizes and supports the declaration of the PRC on China's territorial sea made on 4 September 1958." * Hanoi has since argued that they did this under the duress of the war with South Vietnam and the United States. [REDACTED]

* The Chinese declaration said that the territory of the PRC includes the Chinese mainland and its coastal islands as well as Taiwan and its surrounding islands, the Penghu Islands (Pescadores), Dongsha Islands (Pratas Islands), Xisha Islands (Paracel Islands), the Zhongsha Islands (Macclesfield Bank), the Nansha Islands (Spratly Islands). [REDACTED]

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South China Sea: Disputed Islands

Map 3



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25X1 Since 1974 when China took over the Paracel Islands, it has enhanced its military position there. []

25X1 China has also shown interest in the offshore oil potential of the South China Sea. In 1974, in fact, China drilled a well on one of the Paracel Islands. []

25X1 Vietnam also recognizes the strategic advantages that the islands afford as well as their potentially valuable offshore oil resources but would be unable to challenge the Chinese control of them. Vietnam's naval forces are so inferior to those of China that it would have no chance of evicting the Chinese. []

25X1 The de facto situation on the islands makes it unlikely that their ownership will be included in any negotiation. Both sides will, however, continue to refute each other's claims to the islands. []

The Spratly Islands

25X1 China, Vietnam, the government on Taiwan, and the Philippines each claim sovereignty over the Spratly Islands—an archipelago of more than 100 islands, banks, and reefs scattered over 100,000 square kilometers in the South China Sea— and all but China have some form of military presence in the area. China officially claimed the Spratlys in its 1958 Territorial Sea Declaration. In the early 1970s, when speculation about the oil potential of East Asian waters was running high, China reiterated its claims, warning that any exploratory or developmental activities in the islands constituted encroachments on Chinese territorial sovereignty. []

25X1 Beijing disputed the ownership of the Spratlys with the Saigon government between 1950 and 1975, but China was conspicuously quiet about Hanoi's activities on the islands. Although Hanoi took over South Vietnamese-held islands in 1975, published maps showing the islands as Vietnamese, and explicitly claimed the islands in 1976, China avoided initiating a public dispute until relations deteriorated in 1978 []

25X1 A Chinese Foreign Ministry statement last December laid claim to the Spratlys and denounced the Vietnamese occupation. Hanoi responded by issuing a statement that the Spratlys were "sacred Vietnamese territory," citing historical records and practices as justification of the Vietnamese claim. In their March

1979 memorandums, Beijing and Hanoi reiterated their claims. []

25X1 While Beijing views the contest for the Spratlys as a part of its conflict with Hanoi, it also sees the waters surrounding the Spratlys as potentially rich oil-producing areas. The beginning of commercial production from wells 43 kilometers off the coast of Palawan by the Philippines—expected to reach 40,000 barrels per day by August 1979—plus the planned resumption of oil drilling operations by Manila in the area have revived speculation that the area is rich in oil and natural gas. []

25X1 Furthermore, naval and air bases on the islands, which are strategically located in the middle of major commercial and military transit routes, would improve somewhat China's ability to operate in the area. But Beijing would find it difficult to take the Spratlys from Hanoi because of the weakness of the Chinese Navy and the distance of the Spratlys from the Chinese mainland. The Chinese Navy demonstrated that it could project military power to the Paracel Islands in 1974 (200 to 250 nautical miles from China's shores), but it would be much more difficult to project this type of force in the Spratlys, which are twice as far away from Chinese shores as the Paracels. The continued growth and modernization of the Chinese Navy will, however, enhance China's ability to act in the Spratlys in the long run. []

25X1 Vietnam's aspirations to be a regional power is the major factor behind Hanoi's claims to the Spratlys. However, the potentially valuable oil and natural gas resources in the area and Vietnam's growing need for oil—all of which is now imported—are other significant motivations for Hanoi's strong commitment to defending its claims to the islands. Hanoi's intentions to develop offshore oil resources in the South China Sea have been set back somewhat by the preoccupation with the war with Kampuchea and China, by a Canadian firm's unsuccessful drilling earlier this year, and by contract and logistic problems with firms from West Germany, Italy, and Norway who have not yet begun exploration. []

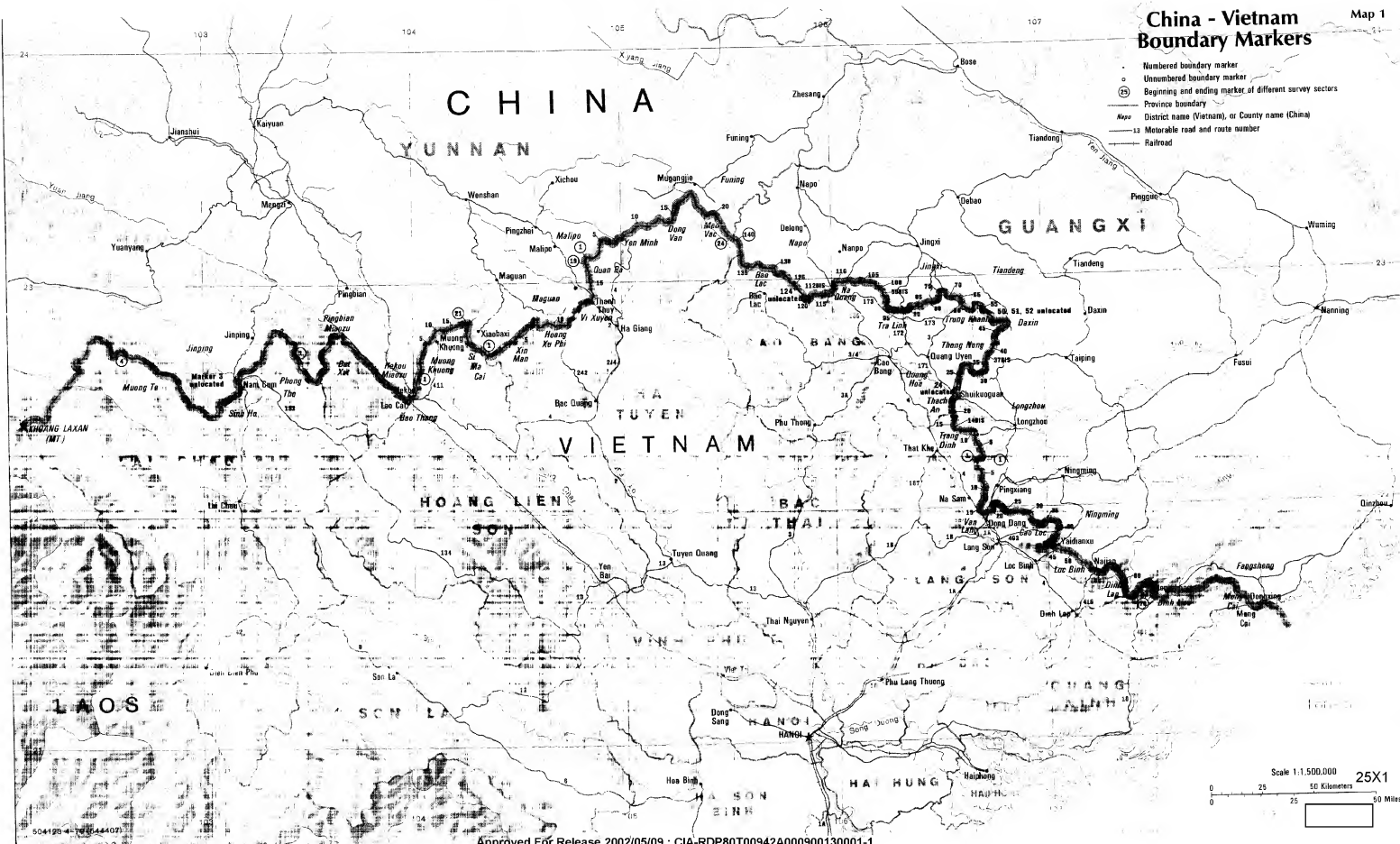
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Facilities on the Spratlys have already improved the capabilities of the Vietnamese Navy. Since 1975 Vietnam has taken a variety of measures to fortify the six islands that it occupies. In addition, recent acquisitions from the USSR will further enhance Vietnam's ability to defend the islands that it currently occupies.

[REDACTED]

The chances that the Spratly Islands dispute will be discussed seriously during the negotiations are slim. Since the dispute also involves the Philippines and the government on Taiwan, it would be difficult for China and Vietnam to treat the issue at this time. Maintaining good relations with Manila and avoiding direct confrontation with Taipei will inhibit China, and Vietnam would probably not want to risk a military contest with either Manila or Taipei. [REDACTED]

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